

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5223 OF 2005

Allabaksha Husen Sayyad ...Applicant

VS.

State of Maharashtra ...Respondent

Mr.Milind V. Deshmukh for the Applicant

Mr.R.Y.Mirza,A.P.P. for State

CORAM: A.S.OKA, J.

DATE : AUGUST 29,2005

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. Submissions of the Advocates were heard on Friday 26th August 2005 and today the application was kept for orders.

2. The Applicant is accused No.1. Bail application made by the other accused has been granted by the Sessions Court. The learned Counsel for the Applicant submitted that there was a dispute between the Applicant and the complainant Navnath on 3rd April 2005. He invited my attention to the F.I.R. bearing C.R.No.33 of 2005 registered at the instance of the applicant. He submitted that the Applicant himself has received injuries in the assault by Navnath by a stick. He submitted that considering the F.I.R. lodged at the instance of the Applicant and the F.I.R. which is subject matter of this Application, there appears to be a fight between the two groups. He submitted that the deceased Dattatraya Taware died nine days after the date of alleged assault. He submitted that a case is made out for enlarging the Applicant on bail.

3. The learned A.P.P. pointed out that the F.I.R. registered at the instance of the Applicant relates to the fight between the Applicant and one Navnath Taware. He invited my attention to the statements of various witnesses. He submitted that there is enough evidence on record to show the complicity of the Applicant.

4. I have considered the submissions. I have also perused the statements of various witnesses. The Witness Balasaheb has merely stated that five to six Kannada speaking people were assaulting the deceased and the said Navnath and others were assaulting the Kannada speaking persons. Same is the statement of Vinayak and Hanumant. The prosecution has also recorded the statement of Navnath. Navnath has not ascribed any specific role to the Applicant.

5. Perusal of the F.I.R. filed by the Applicant shows that there were a fight between the Applicant and the said Navnath. He has stated that in fact the said Navnath assaulted the Applicant by a stick. The Applicant has received certain injuries which are of simple nature.

6. Considering the fact that other co-accused are enlarged on bail and no specific role has been ascribed to the Applicant, a case is made out for enlarging the Applicant on bail.

7. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.33 of 2005 registered with Wadgaon Nimbalkar Police Station, Pune subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) Bail is granted subject to the condition that the Applicant will report to the concerned Police Station on every Sunday at 11.00 a.m. till the conclusion of trial.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) Parties to act upon an authenticated copy of this order.

JUDGE